STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	**Docket No. 13-0105**
v.	)	
	)	
Ameren Illinois Company	)	
d/b/a Ameren Illinois	)	
	)	
	)	
Petition for Approval of Tariffs Implementing	)	
Ameren's Proposed Peak Time Rebate	)	
Program	)	

INITIAL BRIEF OF AMEREN ILLINOIS COMPANY

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I. INTRODUCTION

In this proceeding, Ameren Illinois Company ("Ameren" or "AIC") has petitioned the Commission for approval of its proposed peak-time-rebate ("PTR") program. No party to this case challenges whether AIC's PTR program complies with Illinois law nor whether, with certain agreed modifications, AIC's petition should be approved.

Only one issue divides only one of the parties. The disputed issue concerns a proposal by intervenor Comverge, Inc. ("Comverge"), a company in the business of providing peak-demand-response services. Comverge proposes that the Commission require AIC and its customers to pay for a pilot program that would study certain impacts of direct load control ("DLC") technology on the PTR program.

AIC and the Staff oppose this recommendation. First, DLC technology is not a cost-effective solution: at current capacity pricing, it would take almost 400 years to pay the price of a DLC device. And while capacity values in the long term can be debated, in the near- and mid-term, it is evident that mandated DLC as part of AIC's PTR program will not be cost beneficial. Energy efficiency and demand response measures offered under Section 8-103 must undergo a cost effectiveness screening. 220 ILCS 5/8-103. A DLC device program offered as a PTR pilot program should also undergo a cost-effectiveness screening to determine if resources are anticipated to be used prudently.

Not only do current capacity values fail to justify DLC, but a neighboring utility has already been ordered to establish a pilot program to study the identical issues raised by Comverge, and the results from the Commonwealth Edison Company ("ComEd") pilot can be evaluated by AIC. Comverge's proposal to establish a *second*, duplicative pilot program would certainly multiply costs, but Comverge has not shown that there would be *any* increase in benefits, much less a proportional one.

Comverge bears the burden of supporting its proposal, and it has not done so. Its proposal to establish a second DLC pilot program should be rejected.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. PTR Program Background.

In 2011, the Illinois General Assembly enacted the Energy Infrastructure Modernization Act ("EIMA"). EIMA requires participating utilities to file an advanced metering infrastructure ("AMI") plan and, within 60 days of the plan's approval by the Commission, to "file a proposed tariff with the Commission that offers an opt-in market-based peak time rebate program to all residential retail customers with smart meters." 220 ILCS 5/16-108.6(g). The law contains a number of requirements.

Rebates must be funded based on "the amount of compensation the utility obtains through markets or programs at the applicable regional transmission organization," which in this case is MISO, the Midcontinent Independent System Operator. *Id*. The law requires utilities to "make all reasonable attempts to secure funding for the peak time rebate program through markets or programs at the applicable regional transmission organization." *Id*. Program rules must "include electronic sign-up, be designed to maximize participation, and be included on the utility's website." *Id*. Once approved, the Commission is required to monitor performance and, if the program does not result in "net benefits" to residential customers within a certain period of time, to terminate or modify the program. *Id*.

AIC elected to participate in EIMA, and as such, it was obliged to propose a PTR program. Its AMI plan was approved on December 5, 2012. *Ameren Ill. Co.*, Docket No. 12-

0244, Entry on Rehg. at 26–27 (Dec. 5, 2012). Less than 60 days later, on February 1, 2013, AIC filed a petition proposing Rider PTR – Peak Time Rebate. (*See* Petition at 7.)

As required by law, AIC consulted with the Smart Grid Advisory Council before filing its petition. (Ameren Ex. 1.0 (Jones Dir.) at 3.) After filing, AIC held several meetings with stakeholders. (*Id*. at 3–4.) Several parties then intervened in the case: the Illinois Competitive Energy Association ("ICEA"), the Citizens Utility Board ("CUB"), and Comverge, a company in the business of providing peak-demand-response services. (Comverge Ex. 1.0 (Lacey Dir.) at 1.)

AIC presented the testimony of two witnesses: Leonard Jones, AIC's Director of Rates and Analysis, who provided an overview and description of Rider PTR; and Gregory Weiss, a capacity trader and RTO consultant, who described how the rebates would be funded. (*See* Ameren Ex. 1.0 (Jones Dir.); Ameren Ex. 2.0 (Weiss Dir.).)

B. PTR Program Description.

The PTR program is designed to provide credits to customers for reducing electricity usage below that of an established baseline during a curtailment event. (Ameren Ex. 1.0 at 3:53–61.) The credits are based on the capacity values assigned by MISO, as later discussed. The program is available to all residential customers with smart meters installed and operational, without regard to the customer's choice of power supplier, although certain customers participating in AIC's net-metering and qualifying-facilities tariffs are not eligible to participate due to practical difficulties. (*Id*. at 5:99–111.)

Three primary variables must be established for the PTR program to operate, namely, AIC must (*1*) measure how much energy usage was *reduced*, (*2*) determine the *value* of the rebate, and (*3*) establish *when* energy reductions would generate credits, that is, curtailment events. AIC determined these issues as follows.

1. Measuring the energy-usage reduction.

To measure the energy reduction, the customer's actual usage during a curtailment event will be compared to his or her "Customer Baseline Load" ("CBL"). (Ameren Ex. 1.0 at 3:53–61.) "If the customer uses less energy during a Curtailment Period than usage established in the CBL, a credit will be applied to such difference. If the customer uses more energy during a Curtailment Period than the CBL quantity, no credit is applied and there is no penalty." (*Id.*)

Each customer's baseline would be unique, "based on the individual residential customer's hourly electric energy usage during a period of time that does not occur during a specific Curtailment Period, but that corresponds to such specific Curtailment Period." (*Id.* at 13.) Baseline usage would be determined using the following steps. First, AIC would identify the 14 previous days that are not holidays or curtailment-event days. Next, the Temperature Humidity Index ("THI") and kWh for the Curtailment Period hours would be compiled for each day and each customer. AIC would then take the three highest kWh values during the hours of the Curtailment Period and develop an average for each customer, excluding any day not within 10 percent of the THI during the Curtailment Event. (*Id.* at 13:285–94.) "If all three days are outside the 10% THI threshold, the CBL shall equal the kWh for the highest load day." (*Id.*)

2. Measuring the credit.

AIC proposes determining the amount of the rebate annually, after each MISO capacity auction in advance of the MISO planning year. It would do so using a formula based on the amount of funding received from MISO, divided by the expected net kWh reduction experienced from initiating Curtailment Events.

AIC has assumed that a total of 20 event hours will be called during the MISO planning year, and it proposes to set a PTR credit floor of $0.50/kWh. If funding from MISO programs would not generate a credit of at least $0.50/kWh—a possibility given the current auction results for capacity—AIC would call fewer than 20, but not less than 6, event hours. (Ameren Ex. 1.0 8:167–9:195.) This approach was supported by other stakeholders. (*Id*.)

3. Establishing curtailment events.

This leads to the next question: when will energy reductions earn rebates? Energy reductions only lead to rebates if they occur during a "curtailment event."

AIC has defined two types of curtailment event: a scheduled event or an emergency event. (*Id*. at 9:196–203.) The former describes a curtailment scheduled by AIC during a time of high demand (*e.g.*, a summer peak day); the latter describes a curtailment called by MISO (*e.g.*, a capacity or transmission emergency). (*Id*.) Given the unpredictability of emergency events, AIC will "endeavor to conservatively manage Scheduled Events so that funding for an Emergency Event is available should it be needed." (*Id*.)

AIC will notify customers of curtailment events as soon as reasonably practical, and no later than one hour prior to the start of the event. Notification will be issued through electronic mail, an automated telephone message, a text message, or other available and applicable communications protocol. Although AIC obviously cannot guarantee that a customer will receive any given notification, AIC will make reasonable attempts to provide notice by 9 p.m. of the preceding day, will provide a courtesy notice to the appropriate retail electricity supplier, and will generally provide customers with as much notice as reasonably practical. (Ameren Ex. 1.0 at 11:252–12:264; Tr. 76.)

C. LMR registration.

As noted, rebates are to be funded from compensation received from MISO. 220 ILCS 5/16-108.6(g). To receive these funds, AIC must register with MISO as a Load Modifying Resource ("LMR"). An LMR creates value and earns compensation by providing "additional and verifiable reductions in end-use customer demand" in situations that demand it. (Ameren Ex. 2.0 (Weiss Dir.) at 3.)

When registering, an LMR must estimate its level of load reduction, and this quantity is ultimately converted into what is known as a zonal resource credit. These credits, when offered into capacity auctions run by MISO, may be converted into a revenue stream that will ultimately fund program rebates. The details of this process are explained by AIC witness Gregory Weiss. (*Id*. at 2–5.)

In developing the PTR program, AIC has consulted with MISO representatives, and it will continue to do so to ensure that its registration is accepted. (Ameren Ex. 2.0 at 4:71–72, 5:102–05.) In its consultation with MISO, AIC has been informed that its PTR program "will qualify as an LMR." (*Id*. at 5.) AIC intends to register as a new LMR prior to the 2016 planning year deadline. (*Id*. at 3.)

D. Cost recovery.

AIC proposes to recover the costs of implementing the PTR program from all residential customers through delivery service charges. (Ameren Ex. 1.0 at 16.) This would include "start-up and administrative costs and the cost of preparing the evaluation reports to the Commission." (*Id*.) AIC does *not* propose allocating any of the PTR program costs specifically to PTR customers. (*Id*.) Recovery will be implemented through AIC's performance-based formula rate mechanism. (*Id*.)

Staff supports AIC's cost recovery proposal. (ICC Staff Ex. 2.0 (Allen Dir.) at 2.) And this cost-recovery methodology conforms to the Commission's Interim Order in Docket No. 12-0484, which conditionally approved ComEd's Rider PTR. In that proceeding, the Commission agreed that program costs should be recovered from all residential customers. *ComEd*, Docket No. 12-0484, Interim Order at 23 (Feb. 21, 2013) ("*ComEd* Order").

III. UNDISPUTED AND RESOLVED ISSUES

No party recommends rejecting AIC's PTR program, and with one exception, all issues raised have been resolved. AIC will first explain how its proposed PTR program complies with the requirements of Illinois law. Then, it will discuss how certain issues were resolved that had been raised by intervenors. Finally, it will show that Comverge's proposal to establish a second DLC pilot program should be denied. For these reasons, as discussed in greater detail below, the Commission should approve AIC's petition.

A. AIC established that its PTR program complies with Illinois law.

Illinois law establishes a number of requirements to approve a PTR program, and AIC has met them. 220 ILCS 5/16-108.6(g).

Section 16-108.6(g) requires that the utility file its proposed tariff within 60 days of the approval of its AMI plan. *Id*. AIC complied with this requirement: its AMI plan was approved on December 5, 2012. *Ameren Ill. Co.*, Docket No. 12-0244, Entry on Rehg. at 26–27. It filed its petition and proposed tariff in this case on February 1, 2013, less than 60 days later.

The law required AIC to consult with the Smart Grid Advisory Council before filing its proposed tariff; AIC did so. (Ameren Ex. 1.0 (Jones Dir.) at 3.)

Likewise, as required by Section 16-108.6(g), AIC's PTR program "is designed as an opt-in market-based demand response program which provides bill credits to participating residential retail customers for kilowatt-hours (kWh) of estimated energy reduction achieved by such customers during specific periods that are identified as peak usage periods." (*Id*. at 4.)

As required, the program will operate in "a competitively neutral manner." 220 ILCS 5/16-108.6(g). "The [PTR] program is available to said customers on a competitively neutral basis, meaning that a customer's choice of power supplier alone will not influence eligibility for Rider PTR." (Ameren Ex. 1.0 at 5.)

The law requires utilities to "make all reasonable attempts to secure funding for the peak time rebate program through markets or programs at the applicable regional transmission organization." 220 ILCS 5/16-108.6(g). AIC witness Gregory Weiss explained the process through which AIC will attempt to secure this funding from MISO. (Ameren Ex. 2.0 (Weiss Dir.) at 2.)

Finally, the law requires that "[t]he total amount of rebates shall be the amount of compensation the utility obtains through markets or programs at the applicable regional transmission organization." 220 ILCS 5/16-108.6(g). AIC made clear that it intends to fund PTR Credits "in an amount equal to the compensation received by the Company through applicable MISO programs." (Ameren Ex. 1.0 at 10.)

B. To AIC's knowledge, no party disputes whether AIC's PTR program should be approved.

AIC does not believe that there are any disputes regarding AIC's compliance with 220 ILCS 5/16-108.5(g). No party recommended rejecting AIC's petition to establish a PTR program, and several parties recommended approving it. CUB witness Rebecca Devens specifically recommended that the Commission approve the program. (CUB Ex. 1.0 (Devens Dir.) at 5:74–75.) Likewise, Staff supported the recovery of PTR program costs from all residential customers. (ICC Staff Ex. 2.0 (Allen Dir.) at 2 ("I recommend the Commission accept Ameren's proposal to assign its PTR program implementation costs to all residential customers through its distribution formula rates.").)

C. Although AIC is willing to accept a modified tariff to address the zero-credit issue, AIC reserves the right to revisit this issue in a later proceeding.

One disputed issue has been resolved. AIC disagreed with Staff and CUB regarding whether a "zero credit" could be permitted under the tariff. This refers to a situation in which a customer curtailed usage but, due to the unavailability of funding, would not receive any rebate. AIC has agreed to a compromise that eliminates that issue in this proceeding.

1. AIC agreed to the removal of tariff language permitting a zero credit.

A zero credit would only be possible if MISO funding were depleted *and* it were the PTR program's expected final year. (Ameren Ex. 5.0 (Jones Sur.) at 2:28–33.) AIC had proposed that in such a situation, with no future funding available, no credit would be paid. (*Id*. at 3:46–47.) But in order to reach a compromise on the issue with Staff and CUB, who opposed a zero credit, AIC stated that it would "modify the tariff to exclude the provision that would allow a zero credit to apply." (*Id*. at 2.) A proposed tariff, without the zero-credit provision, was introduced into the record as ICC Staff Cross Exhibit 1.

2. AIC reserves the right to seek modification of its tariff in a future proceeding.

As stated in testimony, however, AIC does reserve the right to pursue modification of the PTR tariff if it concludes that "despite using its best efforts, there will be circumstances when there are no funds by which to compensate customers." (*Id*. at 3.) Section 16-108.6(g) mandates that rebates be funded by MISO: "The total amount of rebates *shall be* the amount of compensation the utility obtains through markets or programs at the applicable regional transmission organization." *Id*. Requiring AIC's shareholders to pay for rebates would directly contravene this requirement.

To be clear, AIC intends to manage the program to avoid a depletion of funds and consequent zero credits. (Ameren Ex. 5.0 at 3:46–47.) But it is entirely possible that funding could be depleted despite AIC's best efforts. Even if AIC called *no* scheduled events—and that is the primary tool at AIC's disposal to preserve rebate funds—it has no control over emergency events or how much customers ultimately curtail. There is only so much funding available for rebates. If MISO calls too many hours of emergency events, or calls them late in the year, or if customers curtail more than expected—any of these scenarios could exhaust funding, and there would be nothing AIC could do about it. (*Id*. at 6:122–7:139.)

Moreover, there would be nothing intrinsically untoward about a zero credit. Regardless of the PTR program, customers are frequently asked to reduce consumption in times of high demand. As AIC witness Leonard Jones pointed out, there is nothing unusual about a utility requesting voluntary, uncompensated reductions in consumption. Such calls have gone out in times of system emergencies or other curtailment events. (*See id*. at 7:143–55.) And customers would still receive the benefit of lower energy charges, even if they would not receive the added rebate.

Again, to resolve this case, AIC will agree to the proposed tariff included as ICC Staff Cross Exhibit 1. But if it appears to AIC that it may not be able to avoid a depletion of PTR funding, AIC reserves the right to request appropriate modification of the tariff.

IV. DISPUTED ISSUE

This leads to the one disputed issue in this case. Comverge recommends that AIC "should design a direct load control [DLC] pilot program to be launched simultaneously with the beginning of Ameren's PTR service in June 2016." (Comverge Ex. 1.0 (Lacey Dir.) at 2.) AIC opposes this recommendation, and as it will demonstrate, Comverge has not supported it.

Two fatal problems require rejection of Comverge's proposal. First, capacity values in MISO are extremely low, so low that at current prices, it would take nearly four centuries for PTR credits to pay for a DLC device. Unless and until the value of capacity rises—and rises substantially—there is no point in even considering a pilot program or any other program that mandates DLC. Second, the evidence presented by Comverge shows only the benefits of DLC technology *in general*. But the issue here is not whether DLC presents any benefits in the abstract; it is whether the Commission should order a *second* DLC pilot program, when an identical, contemporaneous DLC pilot program is already being established by a neighboring utility. But although this is the key issue in this case, Comverge has not offered any serious evidence even addressing it. Its proposal must be rejected.

But before turning to the substance of Comverge's proposal, AIC would address an important point of procedure.

A. Comverge bears the burden of proof of showing that a second DLC pilot program is necessary.

Comverge carries the burden of proof of supporting its proposal. Commission case law makes clear that "each party proposing a result should bear the burden of adducing evidence in support of that proposal." *In re Ill. Commerce Comm. on Its Own Motion v. Ill. Consol. Tel. Co.*, Docket 94-0042, 1995 Ill. PUC LEXIS 828, at *103 (Dec. 6, 1995). "Where a party asks a court to believe a proposition and to base a finding thereon in his favor, the law casts the burden on him of furnishing the evidence upon which such finding can legally rest." *Bell v. School Dist.*, 407 Ill. 406, 416 (1950); *see also, e.g.*, *City of Pekin*, Docket 02-0352, 2004 Ill. PUC LEXIS 21, at *11 (Jan. 22, 2004) (the "party seeking affirmative relief bears the burden of proof").

Applied here, these authorities show that it does not fall to AIC or any other party to *disprove* the necessity of a second DLC pilot program. Rather, *Comverge* must affirmatively prove that the second pilot program is reasonably necessary, that its benefits would justify its costs, and that would be in the interests of AIC's customers. And if the Commission determines that the evidence on those questions is ultimately unclear, then that would call for rejecting the proposal.

B. Comverge has not presented any evidence that justifies a second DLC pilot program.

And turning to the merits, Comverge has not met its burden: it has not shown that a second DLC pilot program would be necessary or would produce any benefits worth the costs.

Comverge's proposal to launch a second pilot program stems from the resolution of ComEd's PTR docket. *See* Docket No. 12-0484. In that case, Comverge presented a bolder proposal: it argued that ComEd should "modify the PTR program so that all PTR participants are given the option of ComEd providing them [DLC] technology." *ComEd* Order at 28. The Commission did not adopt the proposal, finding that "there are too many unanswered questions at this point to decide whether DLC should be provided to all PTR participants." *Id*. at 30. But instead of rejecting DLC technology outright, the Commission ordered a pilot program. Thus, "[r]ather than making a decision now regarding DLC, the Commission intends to let the results of the pilot program guide the decision of whether to adopt DLC technology." *Id*. at 31.

There are two major problems that require rejecting Comverge's proposal.

1. Until there is a substantial increase in capacity values in MISO, DLC cannot present net benefits.

First, capacity values in MISO are far too low to justify the investment in DLC technology. Two dollar amounts make this clear: $150.00 and $0.064. The first is the average cost of a DLC device in the ComEd study. The second is the expected value of a PTR credit under current MISO capacity values. (Ameren Ex. 3.0 (Jones Reb.) at 14.) A customer who curtailed an average of 1 kW for six event hours would earn a credit of 38 cents.

The situation is much different for ComEd, which participates in PJM capacity markets. Comverge's witness "agree[d] that cost-effectiveness will be different for the two utilities due primarily to differences in capacity costs in MISO and PJM." (Comverge Ex. 2.0 at 4.) In ComEd's cost-benefit analysis, the cost of capacity was assumed to start at "about $126 per

MW-day," which is exponentially higher than the current cost of capacity in MISO, namely, "$1.05 per MW-day." (Ameren Ex. 3.0 at 13.) (*Id*. at 14.) Thus, in contrast to the MISO credit of 6.4 cents per kWh, ComEd's expected PTR credit is $2.30 per kWh—over 35 times greater. (*Id*.) Of course, even with this exponentially larger credit, the Commission was not convinced that DLC would benefit customers. *ComEd* Order at 30.

Comverge asserts that capacity prices will rise. (Comverge Ex. 2.0 at 3.) If Comverge knew future prices, it would not be asking the Commission for funding. And even if capacity prices were to rise from the current rock-bottom levels, they are not even *close* to justifying DLC investment. Indeed, even assuming higher capacity prices and shorter payback periods, Comverge admits that "for demand response to work effectively at the residential level *the technology deployed must be paid for by the utility*." (*Id*. (emphasis added).) In other words, even with fractionally shorter payback periods, DLC is not cost-effective unless it is subsidized by the utility.

AIC also examined increases in capacity values: a capacity value of $27.40/MW-day—*i.e.*, 27 times greater than the current capacity value—yields a PTR Credit of $0.50/kWh, assuming 20 hours of estimated curtailment. The PTR Credit amount is independent of the assumed level of curtailment (*e.g.*, 1 kW or 0.5 kW). A customer curtailing on average 1 kW for each of the 20 hours would receive $10 while the customer curtailing only 0.5 kW would receive $5. Even at those substantially increased rates, it would still take about 15 and 30 years, respectively, to receive $150 in total credits. A capacity value of $126/MW-day—well over 100 times the current capacity value—yields a PTR Credit of $2.30/kWh, assuming 20 hours of estimated curtailment. A customer curtailing on average 1 kW for each of the 20 hours would receive about $46 while the customer curtailing only 0.5 kW would receive about $23. At those rates, it would take about 3.25 and 6.5 years, respectively, to receive $150 in total credits. But, of course, no one expects capacity values to increase 100 fold.

If DLC is not cost-effective under Comverge's prediction of a high-priced capacity future, it is certainly not cost-effective in present reality. A 391-year payback period does not make for a good investment. As stated by AIC witness Leonard Jones, "before committing AIC's customers to absorb additional cost for DLC devices, it would be prudent to wait and see if the market indeed moves sufficiently in the direction that would appear to support a more immediate payback." (Ameren Ex. 5.0 at 10–11.)

DLC is not cost-effective, and until that changes, the Commission should not mandate its adoption.

2. Comverge presented no evidence justifying a *second* pilot program.

So neither current nor expected capacity prices support consideration of DLC technology at this time. But this is not the only problem with Comverge's proposal: although it bears the burden of proof, it presented no evidence justifying a second pilot program.

The evidence presented by Comverge through its witness Frank Lacey only describes the *general* benefits of DLC technology. That is why Mr. Lacey's testimony is ultimately irrelevant. The Commission has already decided that the case for wholesale DLC deployment has not been made; that is why it ordered the ComEd pilot program. *See ComEd* Order at 30 ("there are too many unanswered questions at this point to decide whether DLC should be provided to all PTR participants"). What Comverge needs to address is why a *second* pilot program should be ordered when the first one is ongoing. Comverge leaves that question virtually unaddressed.

a. A second pilot will duplicate the costs of the first without an increase in benefits.

Comverge simply ignores the fact that the costs of the second pilot will duplicate the costs of the first. Its lack of concern regarding duplicate costs may reflect the fact it does not propose having to pay them; it recommends that AIC and its customers foot the bill. (Comverge Ex. 2.0 at 3 ("for demand response to work effectively at the residential level the technology deployed must be paid for by the utility"); Ameren Ex. 5.0 at 11.) The Commission recognized cost concerns in the *ComEd* Order. It noted that the cost of DLCs "would . . . most likely need to be a cost absorbed by all residential consumers" and thus it would be "mindful" of "concerns regarding cost . . . during the review of the pilot proposal." *ComEd* Order at 31. Comverge's proposal here does not suggest a similar "mindfulness" of cost. Not a single dollar needed to fund the ComEd pilot will count towards funding AIC's.

While Comverge's recommendation would duplicate the costs of the ComEd pilot, it has not shown that it would provide any increase in new benefits. Indeed, the one time that Comverge's witness mentions the issue of whether a second pilot program would be cost effective, he simply sidesteps it. Mr. Lacey mentions AIC's testimony that Comverge's proposed "pilot program should undergo a cost-effectiveness screening." (Comverge Ex. 2.0 at 4.) But rather than offer any cost-benefit analysis of a second pilot program, Mr. Lacey merely states, "One of the goals of the DLC PTR pilot would be to prove cost-effectiveness, not just with hypothetical numbers and projections, but with real data." (*Id*.) Notably, AIC has provided real data in its expectation of capacity values.

Mr. Lacey's testimony simply misses the point. The issue in this case is not simply whether DLC technology would be cost-effective. It is *also* whether a *second pilot program* would be cost-effective. Comverge presented no evidence even purporting to answer that question.

b. The evidence confirms that a second DLC program would *not* be cost-effective.

More than that, what the evidence *did* show is that one pilot is enough.

The record is clear that information learned from ComEd's pilot will be applicable to AIC's system. AIC witness Leonard Jones testified that "many of the key findings from the ComEd DLC pilot, especially those pertaining to the amount of load curtailed with or without technology, [would] be applicable to Ameren Illinois." (Ameren Ex. 5.0 at 9.) "Differences in the amount of load curtailed by customers with and without technology in the ComEd pilot could be extrapolated for use by AIC," so "if the ComEd pilot results show that 25% more load is curtailed due to DLC, then with this information Ameren Illinois could deduce that a comparable reduction would likely be achieved." (*Id*.) As Mr. Jones explained on cross-examination, AIC and ComEd "have neighboring service territories," and many ComEd customers would likely "have profiles . . . identical to our Ameren Illinois profiles." (Tr. 66.)

To the extent that differences in load profile exist—*e.g.*, between urban and rural areas—those "are factors that [AIC] can adjust for." (*Id*.) For instance, "the results from the ComEd study could be adjusted to incorporate a provision where [AIC compares] like customers." (Tr. 77.) Data from "urban customers in ComEd . . . would transfer over to the urban type customers in the Ameren territory," while for "rural customers in ComEd, [AIC] would. . . transfer the results to the rural customers at Ameren." (*Id*.)

No evidence in the record suggests otherwise. In his rebuttal testimony, Mr. Lacey asserts that AIC "is a very different utility from ComEd, with very different customers." (Comverge Ex. 2.0 at 5.) But how are they "very different"? And why do those differences require establishing a duplicative DLC pilot program? Mr. Lacey never elaborates. (*See id*. at 5–8.) His assertion that the two utilities and their customers are "very different" is conclusory and should be disregarded.

In short, the only conclusion supported by the evidence is that a second pilot program, like DLC technology in general, would not be cost-effective.

3. Other reasons offered by Comverge do not support adopting its recommendation.

Comverge offers a few other points in support of its recommendation, but none of them comes to grips with the real issues in this case.

a. AIC's past cost-benefit analyses did not support Comverge's proposal.

For example, Mr. Lacey asserted that customer benefits from demand response "quantified in Ameren's Cost-Benefit Analysis of AMI implementation were over two thirds of the total" and that these calculations assumed use of DLC technologies. (Comverge Ex. at 4–5.) Based on this data, Mr. Lacey suggests that AIC "postulated" a PTR program in which "the direct load control option" is "available to all PTR participants." (*Id*. at 5.)

This misrepresents the analysis done by AIC. Although the AMI cost-benefit analysis did assume some usage of DLC devices by customers, "[t]he benefit value . . . was determined assuming *AIC would not be the entity providing DLC devices to customers*." (Ameren Ex. 5.0 at 11 (emphasis sic).) On the contrary, what was "assumed in the AMI cost/benefit analysis" was "that the customer would bear the full cost of the DLC devices." (*Id*.) AIC's cost-benefit analysis does not address the scenario urged by Comverge: one in which "the incremental cost of purchasing DLC devices [is] transferred to AIC and its customers." (*Id*.)

AIC's cost-benefit analysis in the AMI case does not support Comverge's request.

b. Comverge has not shown that any timing concerns justify a second pilot program.

Mr. Lacey also offered several timing reasons that in his estimation required a pilot program *now* and not later—"a PTR DLC pilot program should . . . be implemented by Ameren as soon as possible." (*See* Comverge Ex. 6–7.) Again, Comverge misses the point.

First, this is yet another argument for a pilot program in general, not for a second pilot program. And a DLC pilot program *is* being implemented by a neighboring utility, and it is being implemented in a time-sensitive manner. The Commission ordered ComEd to "develop a pilot DLC program that would . . . allow the Commission to make a reasoned decision sooner rather than later." *ComEd* Order at 30. Comverge's timing concern, then, is already being addressed by ComEd.

ComEd's pilot program is scheduled to begin a year before AIC's PTR program, so there is ample time to incorporate any lessons learned. "ComEd is expected to have a DLC PTR pilot program operational for the summer of 2015," while "AIC's first year of its PTR program is not until the summer of 2016," one year later. (Ameren Ex. 5.0 at 12.) Once ComEd's study is complete, AIC could perform a study to "incorporate the DLC demand reduction results of the ComEd pilot program into a cost-benefit analysis" applicable to its own system. (*Id.*) AIC could complete such a study in 90 days and file it with the Commission to decide if further action regarding DLC technology is warranted. (*Id.*)

Timing is yet one more issue that has already been addressed in the *ComEd* Order. Those concerns do not justify a second, parallel DLC pilot.

c. Notice concerns are irrelevant to whether there should be a second pilot.

Finally, Mr. Lacey raised arguments based on the fact that the PTR tariff "provides for a minimum of one hour notice of Curtailment Periods." (Comverge Ex. 2.0 at 2.) He suggests that in minimum notice situations, DLC would enable greater usage reductions. (*Id*. at 1–2.)

This is another irrelevant argument. Again, it supports DLC technology *in general*—it is completely irrelevant to whether a second pilot is necessary. And Comverge seriously overstates any notice issues. The one-hour notice is the *minimum* notice period; but "MISO tariffs presently allow *up to* 12 hour[s'] notice without reducing the value received for the LMR." (Ameren Ex. 3.0 (Jones Reb.) at 12 (emphasis added).) And AIC made clear on the record that it would accept tariff revisions that "obligate the Company to provide customers with as much notice as reasonably practical." (Tr. 76.)

Notice concerns do not justify duplicating the ComEd pilot program.

4. Even if some additional need were shown, a second program would be an extremely expensive solution.

Finally, with respect to all of the reasons articulated by Comverge, none require a program *run by a second utility*. Even to the extent that Comverge could show some deficiency in the ComEd program, it would still be necessary to show that the most cost-effective way to address that deficiency would be through a second pilot, and not a revision or addition to the existing program.

* * *

Obviously, it is in Comverge's interests to see its business grow. And if, despite the lack of *any* market justification, it can persuade a governmental entity to require that its product and services "be paid for by the utility," then (for Comverge) so much the better. (Comverge Ex. 2.0 at 3.) But that outcome would not be in the interests of ratepayers. In this context, given current capacity pricing, and when a pilot program in a neighboring utility's territory has just been ordered, the Commission should not be so heedless of how ratepayers' money is spent.

Comverge has provided no evidence justifying adoption of a second DLC pilot program. Its request should be denied.

V. CONCLUSION

For the foregoing reasons, the Commission should approved AIC's proposed PTR program and tariff, with the modifications accepted above. It should reject Comverge's proposal for a second pilot program.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Edward C. Fitzhenry, an attorney, certify that on October 4, 2013, I caused a copy of the foregoing *Initial Brief of Ameren Illinois Company* to be served by electronic mail to the individuals on the Commission's Service List for Docket 13-0105.

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